

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION**

FREDERICK BRAGGS,

Plaintiff,

v.

DIRECTOR, TDCJ-CID,

Defendant.

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**CIVIL ACTION NO. 5:19-CV-00077-RWS**

**ORDER**

The Plaintiff Frederick Braggs, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. § 1983 complaining of alleged violations of his constitutional rights. This Court referred the case to the United States Magistrate Judge.

Plaintiff originally filed a habeas corpus petition challenging a prison disciplinary proceeding. The petition also raised allegations of excessive force, racial discrimination and ineffective counsel in a pending criminal prosecution. These claims were severed into the present civil rights lawsuit.

The Magistrate Judge ordered Plaintiff to pay the statutory fee for a civil rights lawsuit or file an application for leave to proceed *in forma pauperis* accompanied by a certified inmate trust account data sheet, as required by 28 U.S.C. §1915(b). The Magistrate Judge also directed Plaintiff to file an amended complaint setting out a short and plain statement of his claims.

Plaintiff did not comply with either of these orders. After reviewing the pleadings, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed with prejudice as to Plaintiff's claims of excessive force and the conduct of defense counsel, and without prejudice as to Plaintiff's claim of racial discrimination.

Plaintiff received a copy of this Report on September 30, 2020. He did not file any objections. Because no objections to the Magistrate Judge's Report have been filed, neither party is entitled to *de novo* review by the District Judge of those findings, conclusions and recommendations, and except upon grounds of plain error, they are barred from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. 28 U.S.C § 636(b)(1)(C); *Douglass v. United Services Automobile Assoc.*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc).

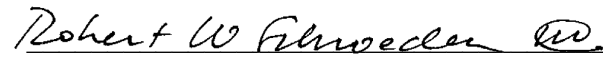
Nonetheless, the Court has reviewed the record in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly

**ORDERED** that the Report of the Magistrate Judge (Docket No. 5) is **ADOPTED** as the opinion of the District Court. It is further

**ORDERED** that the above-styled civil action is **DISMISSED WITH PREJUDICE** as to the Plaintiff's claims of excessive force and the conduct of defense counsel, and **DISMISSED WITHOUT PREJUDICE** as to the Plaintiff's claims of racial discrimination. It is further

**ORDERED** that any and all motions which may be pending in this civil action are hereby **DENIED**.

**SIGNED this 26th day of February, 2021.**

A handwritten signature in black ink, reading "Robert W. Schroeder III", with a stylized flourish at the end.

ROBERT W. SCHROEDER III  
UNITED STATES DISTRICT JUDGE